



Journal of the House

State of Indiana

115th General Assembly

First Regular Session

Seventh Meeting Day

Thursday Afternoon

January 18, 2007

The House convened at 1:00 p.m. with Speaker B. Patrick Bauer in the Chair.

The Speaker stated, "Having conferred with the Attorney General and no objection raised, the temporary House policy while the prayer lawsuit is pending in the courts will be a scripted prayer."

The Speaker read a prayer for health and well-being (printed January 11, 2007).

The Pledge of Allegiance to the Flag was led by Representative W. Vern Tincher.

The Speaker ordered the roll of the House to be called:

Austin	Gutwein
Avery	E. Harris
Bardon	T. Harris
Battles	Herrell
Behning	Hinkle
Bell	Hoy
Bischoff	Kersey
Borders	Klinker
Borror	Knollman
Bosma	Koch
C. Brown ☐	Kuzman
T. Brown	L. Lawson
Buck	Lehe
Buell	Leonard
Burton	Lutz
Candelaria Reardon	Mays
Cheatham	McClain
Cheney	Micon
Cherry	Moses
Cochran	Murphy
Crawford	Neese
Crooks	Niezgodski
Crouch	Noe
Davis ☐	Orentlicher
Day	Oxley
Dembowski	Pelath
Denbo	Pflum
Dermody	Pierce
Dickinson	Pond
Dobis	Porter
Dodge	Reske
Duncan	Richardson
Dvorak	Ripley
Eberhart	Robertson
Elrod	Ruppel
Espich	Saunders
Foley	M. Smith
Friend	V. Smith
Frizzell	Soliday
Fry	Stemler
GiaQuinta	Stevenson
Goodin	Stilwell
Grubb ☐	Stutzman ☐

Summers ☐
Thomas
Thompson
Tincher
Torr
Turner
Tyler

Ulmer
VanHaaften
Walorski
Welch
Whetstone
Wolkins
Mr. Speaker

Roll Call 10: 95 present; 5 excused. The Speaker announced a quorum in attendance. [NOTE: ☐ indicates those who were excused.]

[Journal Clerk's Note: Roll Call 9 was a machine test.]

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Tuesday, January 23, 2007, at 1:00 p.m.

PELATH

Motion prevailed.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Energy and Utilities, to which was referred House Bill 1037, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 12, nays 0.

CROOKS, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Veterans Affairs and Public Safety, to which was referred House Bill 1058, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

TINCHER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Small Business and Economic Development, to which was referred House Bill 1092, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 8 through 12.

Page 1, line 13, delete "3." and insert "2."

Page 2, line 4, delete "4." and insert "3."

Page 2, line 8, delete "5." and insert "4."

Page 2, line 10, delete "6." and insert "5."

Page 2, between lines 13 and 14, begin a new paragraph and insert:

"Sec. 6. As used in this chapter, "involuntary active duty" means full-time service on involuntary orders in:

(1) the armed forces of the United States; or
 (2) the National Guard;
 for a period that exceeds eighty-nine (89) consecutive calendar days."

Page 2, line 27, delete "called to" and insert "**ordered to involuntary**".

Page 2, line 28, delete "duty for deployment overseas;" and insert "**duty**";.

Page 2, line 29, delete "this chapter" and insert "**subsection (b)**".

Page 2, delete lines 30 through 31, begin a new paragraph and insert:

"(b) An employee may take a leave of absence during one (1) or more of the following periods:

(1) During the thirty (30) days before involuntary active duty orders are in effect.

(2) During a period of leave while involuntary active duty orders are in effect.

(3) During the thirty (30) days after the involuntary active duty orders are terminated."

Page 2, line 32, delete "(b)" and insert "(c)".

Page 2, line 33, delete ":".

Page 2, delete line 34.

Page 2, line 35, delete "(2)".

Page 2, line 35, delete "days for a parent." and insert "**days**".

Page 2, run in lines 33 through 35.

Page 2, line 36, delete "(c)" and insert "**(d)**".

Page 2, line 37, after "other leave" insert ", **including additional military family leave offered at the discretion of an employer**".

Page 2, line 41, delete "If the leave will last at least five (5)".

Page 2, line 42, delete "consecutive work days, the" and insert "**An**".

Page 2, line 42, after "shall" insert "**attempt to**".

Page 3, line 2, delete "If the leave will last less than five (5) consecutive work" and insert "**In any event**".

Page 3, line 3, delete "days".

Page 3, delete lines 4 through 5, begin a new paragraph and insert:

"(b) An employer may require verification of an employee's eligibility for the leave. If an employee fails to provide verification required under this subsection, an employer may consider the employee's absence from employment unexcused."

(Reference is to HB 1092 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

ORENTLICHER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1145, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-21-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. Except as provided in section 14.5 of this chapter, the powers of a district include the following:

(1) The power to develop and implement a district solid waste management plan under IC 13-21-5.

(2) The power to impose district fees on the final disposal of solid waste within the district under IC 13-21-13.

(3) The power to receive and disburse money, if the primary purpose of activities undertaken under this

subdivision is to carry out the provisions of this article.

(4) The power to sue and be sued.

(5) The power to plan, design, construct, finance, manage, own, lease, operate, and maintain facilities for solid waste management.

(6) The power to enter with any person into a contract or an agreement that is necessary or incidental to the management of solid waste. Contracts or agreements that may be entered into under this subdivision include those for the following:

(A) The design, construction, operation, financing, ownership, or maintenance of facilities by the district or any other person.

(B) The managing or disposal of solid waste.

(C) The sale or other disposition of materials or products generated by a facility.

Notwithstanding any other statute, the maximum term of a contract or an agreement described in this subdivision may not exceed forty (40) years.

(7) The power to enter into agreements for the leasing of facilities in accordance with IC 36-1-10 or IC 36-9-30.

(8) The power to purchase, lease, or otherwise acquire real or personal property for the management or disposal of solid waste.

(9) The power to sell or lease any facility or part of a facility to any person.

(10) The power to make and contract for plans, surveys, studies, and investigations necessary for the management or disposal of solid waste.

(11) The power to enter upon property to make surveys, soundings, borings, and examinations.

(12) The power to:

(A) accept gifts, grants, loans of money, other property, or services from any source, public or private; and

(B) comply with the terms of the gift, grant, or loan.

(13) The power to levy a tax within the district to pay costs of operation in connection with solid waste management, subject to the following:

(A) Regular budget and tax levy procedures.

(B) Section 16 of this chapter.

However, except as provided in sections 15 and 15.5 of this chapter, a property tax rate imposed under this article may not exceed eight and thirty-three hundredths cents (\$0.0833) on each one hundred dollars (\$100) of assessed valuation of property in the district.

(14) The power to borrow in anticipation of taxes.

(15) The power to hire the personnel necessary for the management or disposal of solid waste in accordance with an approved budget and to contract for professional services.

(16) The power to otherwise do all things necessary for the:

(A) reduction, management, and disposal of solid waste; and

(B) recovery of waste products from the solid waste stream;

if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(17) The power to adopt resolutions that have the force of law. However, a resolution is not effective in a municipality unless the municipality adopts the language of the resolution by ordinance or resolution.

(18) The power to do the following:

(A) Implement a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project.

(B) Apply for a household hazardous waste collection and disposal project grant under IC 13-20-20 and carry out all commitments contained in a grant application.

(C) Establish and maintain a program of self-insurance for a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project, so that at the end of the district's fiscal year the unused and unencumbered balance of appropriated money reverts to the district's general fund only if the district's board specifically provides by resolution to discontinue the self-insurance fund.

(D) Apply for a household hazardous waste project grant as described in IC 13-20-22-2 and carry out all commitments contained in a grant application.

(19) The power to enter into an interlocal cooperation agreement under IC 36-1-7 to obtain:

- (A) fiscal;
- (B) administrative;
- (C) managerial; or
- (D) operational;

services from a county or municipality.

(20) The power to compensate **board members and advisory committee members** for attending meetings at a rate determined by the board. **However, compensation paid under this subdivision to a board member or an advisory committee member may not exceed seventy-five dollars (\$75) for each meeting.**

(21) The power to reimburse board and advisory committee members for travel and related expenses at a rate determined by the board.

(22) In a joint district, the power to pay a fee from district money to the counties in the district in which a final disposal facility is located.

(23) The power to make grants or loans of:

- (A) money;
- (B) property; or
- (C) services;

to public or private recycling programs, composting programs, or any other programs that reuse any component of the waste stream as a material component of another product, if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(24) The power to establish by resolution a nonreverting capital fund. A district's board may appropriate money in the fund for:

- (A) equipping;
- (B) expanding;
- (C) modifying; or
- (D) remodeling;

an existing facility. Expenditures from a capital fund established under this subdivision must further the goals and objectives contained in a district's solid waste management plan. Not more than five percent (5%) of the district's total annual budget for the year may be transferred to the capital fund that year. The balance in the capital fund may not exceed twenty-five percent (25%) of the district's total annual budget. If a district's board determines by resolution that a part of a capital fund will not be needed to further the goals and objectives contained in the district's solid waste management plan, that part of the capital fund may be transferred to the district's general fund, to be used to offset tipping fees, property tax revenues, or both tipping fees and property tax revenues.

(25) The power to conduct promotional or educational programs that include giving awards and incentives that further the district's solid waste management plan.

(26) The power to conduct educational programs under IC 13-20-17.5 to provide information to the public concerning:

- (A) the reuse and recycling of mercury in:

- (i) mercury commodities; and
- (ii) mercury-added products; and
- (B) collection programs available to the public for:
 - (i) mercury commodities; and
 - (ii) mercury-added products.

(27) The power to implement mercury collection programs under IC 13-20-17.5 for the public and small businesses."

Renumber all SECTIONS consecutively.

(Reference is to HB 1145 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

V. SMITH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1221, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 7, nays 4.

CHENEY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Veterans Affairs and Public Safety, to which was referred House Bill 1253, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between lines 4 and 5, begin a new paragraph and insert:

"Sec. 1. As used in this chapter, "contractor" means a person who has a public contract for services with a state agency or political subdivision."

Page 1, line 5, delete "1." and insert "2."

Page 1, line 15, delete "2." and insert "3."

Page 2, delete lines 4 through 14, begin a new paragraph and insert:

"Sec. 4. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

Sec. 5. As used in this chapter, "public contract for services" means any type of agreement, regardless of what the agreement is called, between a state agency or a political subdivision and a contractor for the procurement of services.

Sec. 6. As used in this chapter, "state agency" has the meaning set forth in IC 4-6-3-1.

Sec. 7. (a) A person who hires or employs an individual shall verify the individual's Social Security number using the Social Security Number Verification System in accordance with the rules established by the United States Social Security Administration.

(b) A person who hires an individual shall not continue to employ the individual after learning that the individual is an illegal alien.

Sec. 8. (a) The following may bring a civil action against a person who hires or employs an illegal alien:

(1) An individual who loses the individual's job as a result of the person's hiring or employing of an illegal alien.

(2) A person who loses a contract to the person who hires or employs an illegal alien.

(b) It is a defense to an action brought under subsection (a) that the person against whom the action is brought verified the Social Security number of the illegal alien under section 7(a) of this chapter.

Sec. 9. (a) Except as provided in subsection (b), if a contractor hires or employs an illegal alien, any public contract for services with that contractor is void.

(b) If a contractor hires or employs an illegal alien but the state or political subdivision (whichever the contractor has a public contract for services with) determines that voiding the public contract for services under subsection (a) would be detrimental to the public interest or public property, the state or political subdivision may allow the public contract for services to remain in effect until the state or political subdivision hires a new contractor."

Page 2, line 15, delete "4." and insert "10."

Page 2, line 15, delete "penalty under section 2(b) of this chapter has been" and insert "**person has hired or employed an illegal alien in the previous five (5) years, as determined in a civil action brought under section 8 of this chapter,**".

Page 2, line 16, delete "imposed against a person in the previous five (5) years,".

Page 2, after line 37, begin a new paragraph and insert:

"Sec. 11. A provision of this chapter that violates federal law is void."

(Reference is to HB 1253 as introduced.)
and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 3.

TINCHER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1335, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

CHENEY, Chair

Report adopted.

OTHER BUSINESS ON THE SPEAKER'S TABLE

Referrals to Ways and Means

The Speaker announced, pursuant to House Rule 127, that House Bill 1037 had been referred to the Committee on Ways and Means.

Reassignments

The Speaker announced the reassignment of House Bill 1071 from the Committee on Commerce, Energy and Utilities to the Committee on Rules and Legislative Procedures.

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House Bill 1034, Roll Call 7, on January 17, 2007. In support of this petition, I submit the following reason:

"I was present, but the machine failed to record my vote. I intended to vote yea."

BORDERS

There being a constitutional majority voting in favor of the petition, the petition was adopted.

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House Bill 1034, Roll Call 7, on January 17, 2007. In support of this petition, I submit the following reason:

"I was present in the Chamber, but when I attempted to vote,

the machine had closed. I intended to vote yea."

KLINKER

There being a constitutional majority voting in favor of the petition, the petition was adopted.

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House Bill 1034, Roll Call 7, on January 17, 2007. In support of this petition, I submit the following reason:

"I was present in the Chamber, but when I attempted to vote, the machine had closed. I intended to vote yea."

MAYS

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: adoption of the petitions of Representatives Borders, Klinker, and Mays changes the vote tally for Roll Call 7 to 88 yeas, 0 nays.*]

HOUSE MOTION

Mr. Speaker: I move that Representative Hoy be added as coauthor of House Bill 1027.

DAY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Micon be added as coauthor of House Bill 1029.

HOY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Ruppel and Tincher be added as coauthors of House Bill 1058.

BISCHOFF

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Crooks be added as coauthor of House Bill 1105.

FRIZZELL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Welch be added as coauthor of House Bill 1107.

FRIZZELL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Pflum and Gutwein be added as coauthors of House Bill 1121.

LEHE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Buck be added as coauthor of House Bill 1129.

STILWELL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Duncan, Tyler, and Niezgodski be added as coauthors of House Bill 1205.

PELATH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Orentlicher be removed as coauthor of House Bill 1237 and that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and Representatives Duncan and Crouch be added as coauthors.

WELCH

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Stilwell be removed as coauthor of House Bill 1253 and that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and Representative Ruppel be added as coauthor.

TINCHER

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Battles be added as coauthor of House Bill 1259.

CROOKS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Dodge be added as coauthor of House Bill 1357.

TINCHER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Hinkle and Burton be added as coauthors of House Bill 1361.

BELL

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Niezgodski, the House adjourned at 1:20 p.m., this eighteenth day of January, 2007, until Tuesday, January 23, 2007, at 1:00 p.m.

B. PATRICK BAUER

Speaker of the House of Representatives

CLINTON McKAY

Principal Clerk of the House of Representatives